

January 2000
Bits and Pieces

During this fall and early winter, there have been a number of key events impacting the PECFA program. The Comm 46 emergency rule and the recent budget bill have both been center stage during this period. For this month's column, we are going to try to provide an update on some of the bits and pieces that individuals may have questions on. For example, some questions that we have received are as follows:

1. The Department of Natural Resources charges a fee for reviewing requests for closure. The budget bill made the fee ineligible for reimbursement under PECFA. What date is the change effective on?

The DNR closure fee became ineligible as of the effective date of the budget bill (Oct. 29, 1999). Fees paid by a claimant on or after that date are no longer reimbursable as part of a PECFA claim.

2. The budget bill provides PECFA with two additional staff positions that have to be supported, in the second year of the biennium, by program revenue fees. Does the PECFA program plan on creating a closure review fee?

The PECFA program would clearly prefer not to establish a closure fee. We feel the fee serves to discourage claimants from seeking closure. We are currently looking at the options that exist and feel that there are other solutions. A number of current fees are generating funds in excess of program costs and we would like to use one of these existing revenue sources to support the positions rather than create a new charge.

3. The budget bill reduced the reimbursement level provided for interest costs on loans originating on or after November 1, 1999. Claimants can only receive reimbursement at either 1% under prime or at the 4% rate on these new loans. How will PECFA determine which rate will apply?

PECFA will have to assume the 4% reimbursement rate unless financial information is submitted that documents that the higher rate is appropriate. Documentation necessary to support the higher reimbursement will need to be **based upon tax returns for the year prior to claim submittal**. In addition to tax information, a business will also have to describe any relationship with a parent company, subsidiaries or other "interlocking" enterprises. The PECFA program does not have access to the tax information needed to evaluate the reimbursement rate and, consequently, the burden for developing the financial information will fall to the applicant.

4. The budget bill seems to place its complete focus on the bidding of sites. Will PECFA be bidding all sites?

The budget does affirm the role of bidding in the remediation of PECFA sites. Under the bill, the general premise is that a site should either fall under the \$60,000 fast track process (formally \$80,000) or be sent through a competitive bid process in an effort to control remediation costs. Although this is the standard premise created in the budget, authority was provided to exempt

selected sites from the bidding process. It is likely that a segment of sites, based either on their estimated cost or site characteristics, will be exempted from bidding.

Because of the general premise of bidding contained in the budget bill, the Departments of Natural Resources and Commerce have been working to increase the capacity to bid sites. Staffs from both agencies have been working on the process and procedures of bidding with the goal of establishing a bi-monthly cycle of bidding. We feel that this is necessary in order to provide for the volume of activity envisioned by the budget.

5. The Comm 46 emergency rule has been in place for an extended period of time, what is the status of permanent rule making.

The current Comm 46 emergency rule incorporates a number of important provisions that will make the remediation process clearer and less expensive. There are other provisions and ideas, however, that may serve to improve and make the rule stronger. The Department of Commerce has drafted a number of new ideas into code format and is currently reviewing these elements with the Department of Natural Resources. We hope these additional ideas and the current provisions will form the basis of a final permanent rule.

6. The Department of Natural Resources was using a Technical Advisory Committee (TAC) in their review of NR746/Comm 46. Does Commerce intend to use the Comm 47 administrative rule advisory committee to discuss any of the provisions of Comm 46?

Although many points of Comm 46 (remediation) are unique from Comm 47 (reimbursement), there are ideas for Comm 46 that if adopted may impact provisions contained in Comm 47. It is likely that a number of these ideas will be presented to and discussed with the Comm 47 code committee.